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SUPERFUND RECORDS

June 28, 1988*

Morris Kay
Regional Administrator
U.S. Environmental Protection Agency
Region VII
726 Minnesota Avenue
Kansas City, Kansas 66101

RECEIVED

JUN 28 1988

Re: Cherokee County CERCLA Site

REGIONAL ADMINISTRATOR

Dear Mr. Kay:

On behalf of the potentially responsible parties (PRPs) identified below my signature, I would like to express our gratitude for the opportunity to have met with EPA's technical representatives on June 20 and 21 in Galena, Kansas. The PRP representatives felt that the meeting in Galena allowed for a frank and candid exchange of information, and an appreciation of both EPA and PRP concerns about the selection of an appropriate remedy for the Galena subsite.

As you are aware from our June 6, 1988 meeting with you in Kansas City, and as became more apparent during the technical discussions in Galena, the PRPs' principal concern with the preferred remedial action alternative identified in the draft OUFS for ground and surface water in the Galena subsite is the economic and technical feasibility of the waste rock milling component of that alternative. Accordingly, the PRP's devoted substantial attention to those issues both in preparation for and during the technical meetings, and developed an alternative approach for managing the mine waste materials (both waste rock and chat) that are still present on the surface. Understandably EPA requires additional information concerning the feasibility and effectiveness of that alternative approach before EPA can endorse it.

By the same token, it is evident that EPA still lacks certain basic information concerning the feasibility of the proposed milling option. Specifically, EPA has not yet performed the basic metallurgical testing and analyses and bench scale studies that are clearly necessary to support final selection of the milling alternative.

As you are probably aware, the recent report from the Office of Technology Assessment was particularly critical of EPA's approach to remedy selection in other ROD's where technologies were selected before the studies of their effectiveness were concluded. Indeed, the OTA report suggested that arbitrary deadlines rather than sound technical evaluations were often the driving force behind Agency decisions:

When they are done, most treatability studies are not done early enough. It is critical that they be done during the RIFS before the ROD, but most are done during the design phase after the ROD. Treatability studies will improve the RIFS by providing technical data to support the ROD's analysis of cleanup alternatives and to ensure that the ROD's cleanup choice is effective and satisfies statutory requirements. However, EPA now often speeds up RODs apparently to meet fiscal year goals; thus treatability tests during the RIFS are sacrificed. This sacrifice can backfire. Negative test results after the ROD would indicate the wrong technology choice and the waste of a lot of time and money. Worse, altering a ROD at this point, even for good reasons, may meet some resistance.

U.S. Congress, Office of Technology Assessment, Are We Cleaning Up? 10 Superfund Case Studies - Special Report, OTA-ITE-362 (Washington, D.C.: U.S. Government Printing Office, June 1988), p. 11.

Accordingly, we respectfully urge you in the strongest terms possible not to sign a ROD for remedial action in the Galena subsite in the imminent future simply for the sake of having done so. Rather, in light of the serious technical concerns that the PRP's have raised about whether the waste rock can in fact be successfully milled and metal values recovered, we ask that a final remedy not be selected, and a ROD not be signed, until EPA's metallurgical studies have been completed. We believe that such information is absolutely essential to informed decision making at this site, and cannot be relegated to mere post hoc consideration.

The PRP's identified below are also prepared to furnish additional information and analysis to EPA concerning their alternative for management of the surface waste piles. Specifically, these PRP's are willing to prepare and submit detailed feasibility and effectiveness evaluations of their proposed alternative, including basic engineering evaluations, cost analyses, determinations of environmental impacts (including hydrological evaluations), and an analysis of any associated or residual health risks. We would propose to accomplish these tasks on a mutual satisfactory time

frame, to coincide as closely as possible with milestones in EPA's metallurgical studies.

Accordingly, these PRPs would like to meet with you and your staff at the earliest possible date to determine the precise nature and extent of information that EPA would require, and to agree upon a firm and mutually acceptable schedule. In the interim, we reiterate our urgent request that EPA not act precipitously to meet arbitrary calendar dates, and not rush to judgment before all relevant information is available for review.

This letter and any additional information and analyses provided to EPA by the undersigned PRPs are not an admission or waiver of any defense (and should not be considered as an admission or waiver) concerning the PRPs liability for any response costs at the Cherokee County Site, or concerning the propriety of EPA's activities there. In addition, this submission is not an admission by any of the undersigned PRPs that any of them conducted mining or milling operations in the Galena Subsite.

Thank you for your immediate attention to this matter, and we look forward to your response.

Sincerely,

Peter Keppler
Peter Keppler

On behalf of:

AMAX Inc.

Gold Fields Mining Corp.

N. L. Industries

St. Joe Minerals Co.

Sun Company

